

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** HRA of St. Paul and Rodolfo Hernandez **FILE #:** 12-043-494
  2. **APPLICANT:** City Of St Paul HRA **HEARING DATE:** May 24, 2012
  3. **TYPE OF APPLICATION:** Rezoning - Consent
  4. **LOCATION:** 656 and 660 Wells St., btwn. Payne and Greenbrier; and part of 870 Payne Ave.
  5. **PIN & LEGAL DESCRIPTION:** Chas. Weide's Subdivision of Block 37, Arlington Hills Addition, Lot 16 Blk 37 (PID 29-29-22-42-0229), Lot 17 Blk 37 (PID 29-29-22-42-0230), and Lot 18 Blk 37 (part of PID 29-29-22-42-0284)
  6. **PLANNING DISTRICT:** 5 **EXISTING ZONING:** RT2
  7. **ZONING CODE REFERENCE:** §61.801(b)
  8. **STAFF REPORT DATE:** May 16, 2012 **BY:** Kate Reilly
  9. **DATE RECEIVED:** May 3, 2012 **60-DAY DEADLINE FOR ACTION:** July 2, 2012
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- A. **PURPOSE:** Rezoning from RT2 Townhouse Residential to VP Vehicular Parking.
- B. **PARCEL SIZE:** Three lots 25 ft. x 125 ft. each, totaling approx. 9375 square feet
- C. **EXISTING LAND USE:** Vacant residential
- D. **SURROUNDING LAND USE:** R4 and RT2 residential to the north and east, and T2 Traditional Neighborhood commercial uses to the west and south.
- E. **ZONING CODE CITATION:** § 61.801(b) provides for changes to the zoning of property initiated by the property owner.
- F. **HISTORY/DISCUSSION:** The Housing and Redevelopment Authority of the City of Saint Paul purchased the vacant residential properties at 656 and 660 Well Street through a tax-forfeiture process in order to provide parking for businesses that front Payne Avenue.
- G. **DISTRICT COUNCIL RECOMMENDATION:** District 5 recommends approval of the rezoning.
- H. **FINDINGS:**

1. The purpose of this application is to rezone HRA-owned property at 656 and 660 Wells Street and a portion of a split-zoned parcel at 870 Payne Avenue from RT2 Townhouse Residential to VP Vehicular Parking in order to provide a shared parking lot for two restaurant businesses at 858 and 870 Payne Avenue. The proposed parking lot will provide 20 new parking stalls for a total of 22 parking stalls on the site.
2. § 66.703, *Dimensional standards* for VP Vehicular Parking districts requires a minimum lot area of 4000 sq. feet, minimum setbacks of 4 feet, and minimum front yard setbacks as required for adjoining districts. A 25 foot setback from Aguirre Street is required because the lot fronts on both Wells and Aguirre, and the adjoining RT2 district requires a 25 foot front yard setback. The lot is 9375 sq. feet in area. A variance of the required setback from Aguirre has been requested in a separate application. The dimensional standards in § 66.703 can be met subject to approval of the setback variance.
3. § 66.704, *Required conditions* for VP Vehicular Parking districts, requires the following:
  - (a) *The parking facility shall be accessory to and for use in connection with one or more businesses, industries, institutions, or multifamily residences.*
  - (b) *The parking facility shall be used solely for parking of private passenger vehicles and shall not be used as an off-street loading area.*
  - (c) *No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking facility.*
  - (d) *No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking facility.*

- (e) *No building other than that for the shelter of attendants shall be erected upon the premises unless specifically approved by the planning administrator during site plan review.*
- (f) *Applications for VP district rezoning shall include a site plan which conforms to parking requirements as set forth in section 63.200 and all standards set forth in section 63.300.*
- (g) *VP vehicular parking districts shall be developed and maintained in accordance with the requirements of section 63.200 and section 63.300.*

The parking facility will be accessory to adjacent commercial uses on Payne Avenue. The site plan submitted with the rezoning application is attached. These conditions can be met subject to site plan approval by the zoning administrator.

- 4. *The proposed zoning is consistent with the way this area has developed.* The commercial area around Payne Avenue has generally developed as commercial structures fronting Payne Avenue with limited parking to the rear of buildings. This rezoning creates parking to the rear of structures as preferred by Traditional Neighborhood guidelines. The adjacent property is zoned T2.
- 5. *The proposed zoning is consistent with the Comprehensive Plan.* This rezoning is consistent with the Saint Paul Comprehensive Plan Land Use Policy 1.25 "support a mix of uses on Mixed-Use Corridors." Providing parking for commercial businesses along Payne Avenue supports the mix of uses and supports the existing businesses within the Mixed-Use Corridor. This is also compatible with the Phalen Middle Section Plan of 2004 which seeks to create new mixed-use development at the intersection of Payne Avenue and Phalen Boulevard. This rezoning is one block from that intersection and provides support for a mix of uses along Payne Avenue.
- 6. *The proposed zoning is compatible with the surrounding uses.* The proposed zoning is compatible with the surrounding residential and commercial uses along Payne Avenue and the surrounding side streets. This will place parking between the busy commercial corridor and residential units and act as a buffer between the commercial and residential districts.
- 7. Court rulings have determined that "spot zoning" is illegal in Minnesota. Minnesota courts have stated that this term *"applies to zoning changes, typically limited to small plots of land, which establish a use classification inconsistent with the surrounding uses and creates an island of nonconforming use within a larger zoned district, and which dramatically reduce the value for uses specified in the zoning ordinance of either the rezoned plot or abutting property."* This is not an occurrence of spot zoning in that it rezones parcels of land that are supporting the commercially zoned and used properties to the west and the rezoning provides for parcels of land to act as a buffer between commercial and residentially zoned property.
- 8. The petition for rezoning was found to be sufficient on April 10, 2012: 82 parcels eligible; 55 parcels required; 57 parcels signed.
- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the rezoning from RT2 Townhouse Residential to VP Vehicular Parking subject to the conditions that the setback variance is approved by the Saint Paul Planning Commission and that the site plan is approved by the zoning administrator.

**PETITION TO AMEND THE ZONING CODE**

Department of Planning and Economic Development  
 Zoning Section  
 1400 City Hall Annex  
 25 West Fourth Street  
 Saint Paul, MN 55102-1634  
 (651) 266-6589

Zoning office use only

File # 12-043494Fee: 1200.00

Tentative Hearing Date:

4-26-12

PD-5

# 292922420284**APPLICANT**

Property Owner HRA of the City of St. Paul and Rodolfo Hernandez 292922420230  
 Address See Attached 292922420229  
 City St. Paul St. MN Zip 55102 Daytime Phone                       
 Contact Person (if different) Eric Foster Phone 763-656-3366

**PROPERTY LOCATION**

Address / Location 656 and 660 Wells Street and a portion of 870 Payne Ave.  
 Legal Description See Attached  
 Current Zoning RT-2  
 (attach additional sheet if necessary)

**TO THE HONORABLE MAYOR AND CITY COUNCIL:**

Pursuant to Section 61.800 of the Saint Paul Zoning Ordinance and to Section 462.357(5) of Minnesota Statutes,  
HRA of the City of St. Paul and Rodolfo Hernandez, owner of land proposed for rezoning, hereby petitions you to  
 rezone the above described property from a RT-2 zoning district to a VP  
 zoning district, for the purpose of:

See Attached

(attach additional sheets if necessary)

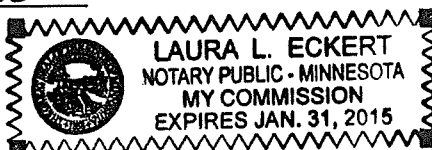
Attachments as required: ☒ Site Plan ☒ Consent Petition ☒ Affidavit

Subscribed and sworn to before me  
 this 22 day  
 of March, 2012.

Laura L. Eckert  
 Notary Public

By: [Signature]  
 Fee Owner of Property

Title: Executive Director  
HRA of the City  
of Saint Paul

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# MESSERLI & KRAMER

March 21, 2012

Messerli & Kramer P.A.  
ATTORNEYS AT LAW  
1400 Fifth Street Towers  
100 South Fifth Street  
Minneapolis, MN 55402-1217  
  
phone 612.672.3600  
fax 612.672.3777  
messerlikramer.com

Additional offices in:  
St. Paul & Plymouth, MN

## VIA HAND DELIVERY

City of St. Paul  
Department of Planning and Economic Development  
Zoning Section  
1400 City Hall Annex  
25 West Fourth Street  
Saint Paul, MN 55102-1634

Writer's contact:  
(612) 672-3624  
emathern@messerlikramer.com

**Re: Rezoning of 656 and 660 Wells Street, 870 Payne Avenue  
Our File No. 19254-1**

To Whom It May Concern:

This letter accompanies a Petition to Amend the Zoning Code for property located at 656 and 660 Wells Street (the "HRA Property") and 870 Payne Avenue (the "Hernandez Property"). I represent Eric Foster and his business entity, Winter Song, LLC ("Winter Song"). Winter Song intends to purchase the HRA Property and was appointed Tentative Developer of that property by the Housing and Redevelopment Authority on January 25, 2012. Eric Foster is also the contract purchaser of the building and land at 858 Payne Avenue ("858 Property"). The HRA Property is located to the east and almost immediately adjacent to the 858 Property. Mr. Foster and his business partner intend to renovate the 858 Property for use as an upscale restaurant and bar. In order to meet City of Saint Paul parking requirements, Winter Song, in conjunction with the owner of 870 Payne Avenue, Rodolfo Hernandez, would like to construct a surface parking lot on the HRA Property and a portion of the Hernandez Property. The HRA, through its staff, has agreed to allow Mr. Foster to pursue this Rezoning Petition prior to purchasing the HRA Property from the HRA.

Mr. Hernandez operates the By More Taqueria restaurant on the Hernandez Property. The Hernandez Property is irregularly shaped and includes a portion zoned TN-2 and a portion zoned RT-2. The restaurant building is located at the northwest corner of the Hernandez Property. To the east, there are several existing parking spaces and additional vacant land. The Hernandez Property is directly adjacent and west of the HRA Property. Hernandez and Mr. Foster have agreed that construction of a shared parking lot on the HRA Property and a portion of the Hernandez Property is favorable and results in more available parking for each of their establishments. As such, they are making this Petition together.

The HRA Property is presently zoned RT-2 and consists of two vacant lots, each 25 feet wide and 125 feet deep. This Petition requests that the Zoning Code be amended to rezone all of the HRA Property and the RT-2 portion of the Hernandez Property to VP. VP is the Vehicular Parking District and is intended to permit the establishment of off-street parking facilities.



City of St. Paul PED

March 21, 2012

Page 2

A proposed Site Plan is attached, showing the creation of 32 total new parking stalls on the combined Hernandez and HRA Properties. Given the proximity of the HRA and Hernandez Properties to Payne Avenue, and the considerable need for off-street parking in the Payne Avenue corridor, a change in zoning from RT-2 to VP, to allow construction of parking, is favorable for both parcels and for the greater neighborhood. Access to parking will enable Mr. Foster and his business partner to begin the renovation of the historic building at 858 Payne Avenue, and open and operate a responsible and community-oriented business. It will also allow Mr. Hernandez to continue to operate, and improve his existing business. This zoning change is consistent with other zoning configurations in the area which feature off-street parking behind and adjacent to businesses fronting on Payne Avenue.

This Petition is also accompanied by the signatures of the owners of more than two-thirds of all eligible properties within 100 feet of the Hernandez and HRA Properties and the Affidavit of Eric Foster, who collected a portion of the signatures.

I can be reached at 612-672-3624 with any questions or concerns. Thank you for your consideration of the attached Petition.

Sincerely,

**MESSERLI & KRAMER P.A.**



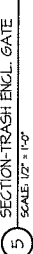
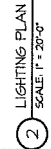
Erin E. Mathern

EEM:tet:954539\_1

Enclosures

cc: Eric Foster  
Rodolfo Hernandez  
Anne Briseno, ESND  
Dan Bayers, St. Paul HRA





**WATER INFORMATION**

1/2 ACRES  
100' WIDE FRONT - 250' D.  
CONCRETE DRIVEWAY - 100' WIDE  
ON PROPERTY - 5,000 G.P.

EQUIPPED BUILDING AND PARKING QUANTITIES:  
100' WIDE DRIVEWAY - 100' WIDE  
PARKING - 30 TOTAL STALLS PROVIDED  
PARKING - 2 STALLS PROVIDED

NOTES:  
1. DRIVEWAY TO MP - VEMULAR PARKING DISTRICT  
2. DRIVEWAY TO MP - RESIDENTIAL PROPERTY  
3. DRIVEWAY TO MP - RESIDENTIAL PROPERTY  
4. SIDE AND BACK WALK ATTACHED FROM PROPERTY LINE

WATER TREE RESERVES:  
1. PLANT TREE FOR EVERY 5 PARKING SPACES  
2. PLANT TREE FOR EVERY 5 SHADE TREES

SHEET NUMBER: A0

ZONING PETITION SUFFICIENCY CHECK SHEET

REZONING

SCUP

NCUP

FIRST SUBMITTED

RESUBMITTED

DATE PETITION SUBMITTED: 3-22-12

DATE PETITION RESUBMITTED: \_\_\_\_\_

DATE OFFICIALLY RECEIVED: \_\_\_\_\_

DATE OFFICIALLY RECEIVED: \_\_\_\_\_

PARCELS ELIGIBLE: 82

PARCELS ELIGIBLE: \_\_\_\_\_

PARCELS REQUIRED: 55

PARCELS REQUIRED: \_\_\_\_\_

PARCELS SIGNED: 57

PARCELS SIGNED: \_\_\_\_\_

CHECKED BY: Paul DubruieL DATE: 4-10-12



Rodolfo

# CITY OF SAINT PAUL

## AFFIDAVIT OF PETITIONER FOR A REZONING

STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY )

The petitioner, Rodolfo Hernandez, being first duly sworn, deposes and states that the consent petition contains signatures of the owners of at least two-thirds (2/3) of all eligible properties within 100 feet of the subject property described in the petition and all property contiguous to the subject property that was owned, purchased, or sold by the petitioner within one (1) year preceding the date of the petition; petitioner is informed that the consent petition must contain signatures from each and all owners of jointly-owned property in order to constitute consent from that property and that failure to obtain consent from each and all owners could invalidate the consent petition; petitioner believes that the consent petition was signed by each of said owners and that the signature are the true and correct signatures of each and all of the parties so described.

Bredrup M

NAME

870 Payne Ave. St Paul mn

ADDRESS

55107

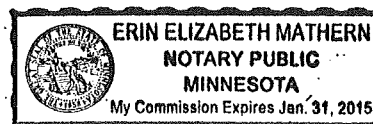
651 600 5967

TELEPHONE NUMBER

Subscribed and sworn to before me this  
3<sup>rd</sup> day of April, 2012.

[Signature]

NOTARY PUBLIC



# CITY OF SAINT PAUL

## AFFIDAVIT OF PETITIONER FOR A REZONING

STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY )

The petitioner, Cecile Bedor, being first duly sworn, deposes and states that the consent petition contains signatures of the owners of at least two-thirds (2/3) of all eligible properties within 100 feet of the subject property described in the petition and all property contiguous to the subject property that was owned, purchased, or sold by the petitioner within one (1) year preceding the date of the petition; petitioner is informed that the consent petition must contain signatures from each and all owners of jointly-owned property in order to constitute consent from that property and that failure to obtain consent from each and all owners could invalidate the consent petition; petitioner believes that the consent petition was signed by each of said owners and that the signature are the true and correct signatures of each and all of the parties so described.



NAME


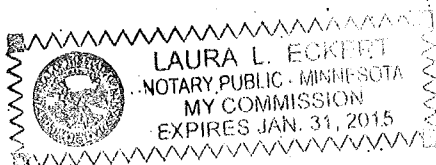
1300 City Hall Annex  
25 W 4th St. St. Paul, MN 55102

ADDRESS

651-266-6565

TELEPHONE NUMBER

Subscribed and sworn to before me this  
4 day of April, 2012.

  
NOTARY PUBLIC

# CITY OF SAINT PAUL

## AFFIDAVIT OF PERSON CIRCULATING CONSENT PETITION FOR A REZONING

STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY)

Daniel K. Bayes, being first duly sworn, deposes and states that he/she is the person who circulated the consent petition consisting of 4 pages; that affiant is informed and believes the parties described on the consent petition are owners of the parcels of real estate described immediately before each name, and that each of the parties described on the consent petition is an owner of property within 100 feet of the subject property described in the petition and all properties contiguous to the subject property that was owned, purchased or sold by the petitioner within one (1) year preceding the date of the petition; that the consent petition was signed by each said owner; and the signatures are the true and correct signatures of each and all of the parties so described.

Daniel K. Bayes  
Daniel K. Bayes  
NAME

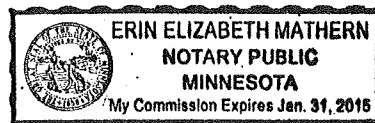
1300 City Hall Annex  
25 W. 4th St. St. Paul, MN 55102  
ADDRESS

651-266-6685  
TELEPHONE NUMBER

Subscribed and sworn to before me this  
3rd day of April, 2012

[Signature]

NOTARY PUBLIC



# CITY OF SAINT PAUL

## AFFIDAVIT OF PERSON CIRCULATING CONSENT PETITION FOR A REZONING

STATE OF MINNESOTA)

:SS

COUNTY OF RAMSEY)

Eric H. Foster, being first duly sworn, deposes and states that he/she is the person who circulated the consent petition consisting of 13 pages; that affiant is informed and believes the parties described on the consent petition are owners of the parcels of real estate described immediately before each name, and that each of the parties described on the consent petition is an owner of property within 100 feet of the subject property described in the petition and all properties contiguous to the subject property that was owned, purchased or sold by the petitioner within one (1) year preceding the date of the petition; that the consent petition was signed by each said owner; and the signatures are the true and correct signatures of each and all of the parties so described.

ERH  
NAME

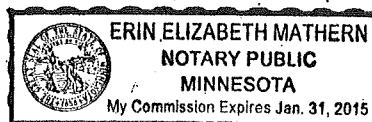
1047 Wilson Ave. St. Paul, MN 55106  
ADDRESS

651-340-3250  
TELEPHONE NUMBER

Subscribed and sworn to before me this

3rd day of April, 2012

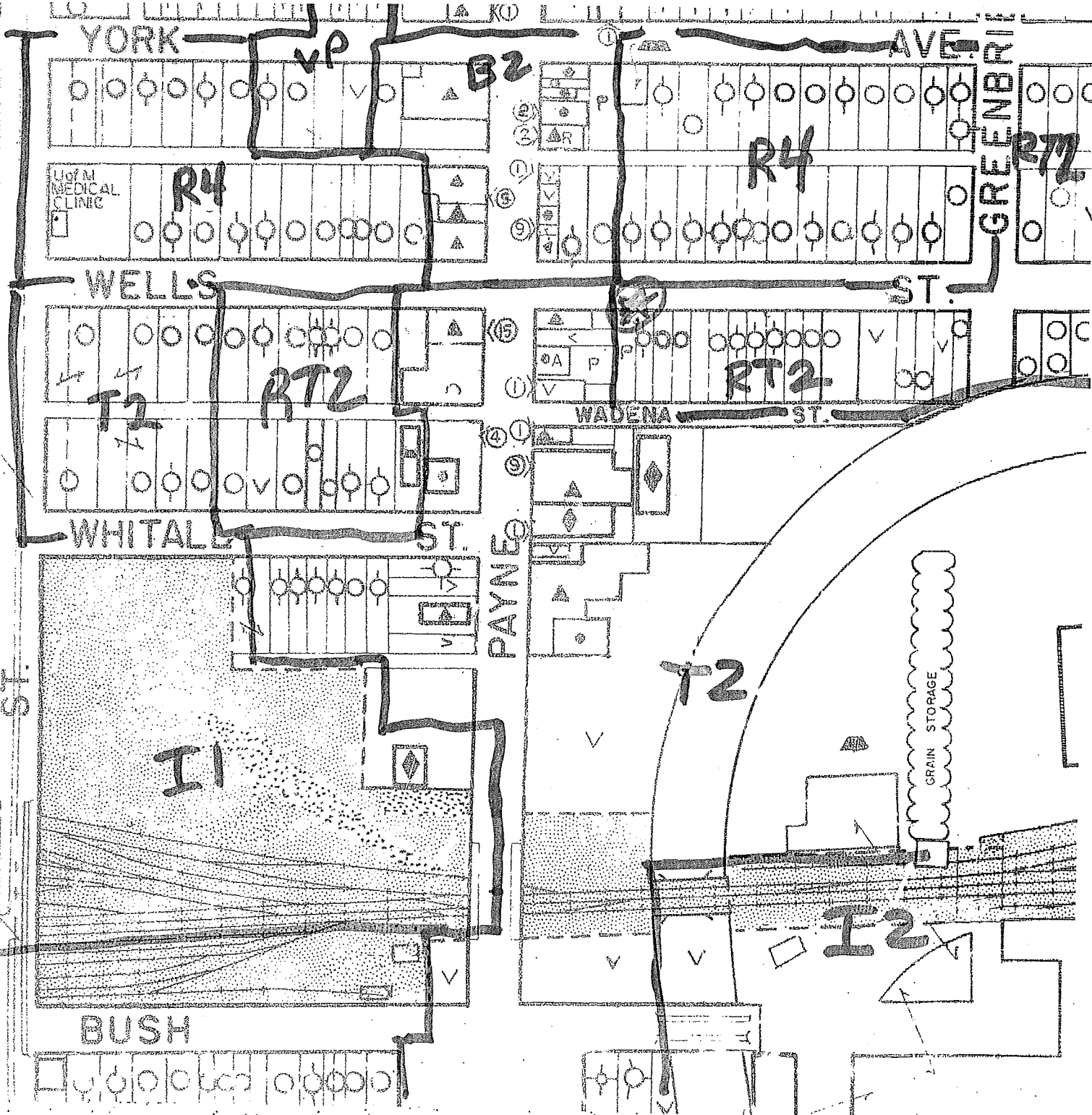
[Signature]  
NOTARY PUBLIC



100ft



This is a detailed plat map of a section of land in Iowa, showing various land parcels, owners, and geographical features. The map includes a grid of sections numbered 1 through 36, with some sections further divided into smaller lots. Owners' names are written across the sections, including J.R. Weide's, C. Weide's, Stinson's, Stroh's, and Schurmeier's. A large area in the center is labeled 'ARLINGTON' and 'STROH'S BREWERY'. A curved line represents a river or stream, and a straight line represents a railroad, labeled 'OMAHA RY. R/W'. The map also shows 'WADENA AVE.' and 'N. P. RY. R/W'. The bottom right corner features a large 'HILLS' label. The map is a technical drawing with precise lines and text, typical of a legal land survey.



APPLICANT HRA + Rodolfo Hernandez  
 PURPOSE REzone RT2 → VP  
 FILE # 12-043494 DATE 4-10-12  
 PLNG. DIST 5 Land Use Map # 14  
 Zoning Map # 10

**LEGEND**

zoning district boundary  
 subject property  
 one family  
 two family  
 multiple family  
 commercial  
 industrial  
 vacant

north

